

IFB #0266 Invitation for Bid

Laboratory Testing of Gasoline and Diesel Fuel and Related Support

for

The New York State Petroleum Product Quality Assurance Program

IFB Issued: January 18, 2022

Mandatory Pre-proposal Conference Registration: February 1, 2022

Mandatory Pre-Proposal Conference: February 8, 2022

Proposal Due: February ~~22~~ 25, 2022

By



**Agriculture
and Markets**

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1. INTRODUCTION

1.1 OVERVIEW

The New York State Department of Agriculture and Markets is soliciting bids for the laboratory testing of petroleum products, and associated support, to continue a Petroleum Product Quality Assurance Program pursuant to Agriculture and Markets Law Article 16 sections 192-a and 192-c. The program has been in operation since 1991. Under this program, the Department regulates petroleum products kept, offered or exposed for sale within New York State. The test results are also used to provide data on Clean Air compliance to the Department of Environmental Conservation (DEC) under the terms of a Memorandum of Understanding.

The Department is seeking bids for an initial 12-month contract slated to begin no sooner than May 1, 2022. Any contract awarded will contain a provision authorizing renewal or extensions of the contract at the Department's option for up to four, additional 12-month periods.

Provided funding is available, the Department plans to continue its testing program at sampling levels roughly the same as fiscal year 2020/2021. The main focus of the Department's current program is motor fuels, e.g. gasoline and diesel fuel. The projected workload for gasoline includes approximately 10,000 samples from retail stations and 2,000 samples from distribution terminals. The projected workload for diesel fuel includes approximately 1,500 samples from retail stations and 650 samples from distribution terminals. The Department may alter the sampling levels at any time during the contract period at its discretion.

The IFB also covers limited tests on biofuels, heating oil and motor oil. The Department will be including tests associated with biofuels although the level of testing is yet to be determined. The products tested will include biodiesel, blendstock ethanol, and gasoline ethanol blends up to 83% ethanol.

The contractor will collect the samples from the Department and municipal inspectors at designated sites on major highways around the State. The municipalities include 57 counties and three cities (60 total). After collection, the contractor must analyze the samples using any of the approved test protocols. In addition, the Department may request retests or follow-up tests on any sample submitted.

Each sample submitted to the contractor will be identified by sample number, product name, inspector ID, and jurisdiction ID. Product names will include gasoline, diesel fuel, heating oil, biodiesel, or ethanol. Ethanol will include both blendstock ethanol and gasoline/ethanol blends up to 83% ethanol. No other information regarding the sample will be provided to the contractor. There will be no phase-in period and the contractor is expected to provide the services requested in all details on the start date of the contract.

The Department will devise procedures in cooperation with the contractor to designate which standard protocol will be performed on any given sample. The analysis must be completed and the results reported in a format acceptable to the Department within four (4) business days from September 16th to May 31st and five (5) business days from June 1st to September 15th following receipt of the sample. The contractor must report the test results of all samples to the Department electronically and provide formal written reports on request. In addition, the test results from retail samples must be reported to the municipality taking the sample via email where available or by FAX or other means where email is unavailable.

Subcontracting of any portion of the services required by this IFB shall not be permitted without the expressed prior written approval of the Department. Bidders wishing to use subcontractors must include, as part of their proposal, a complete description of the proposed subcontractor, its key personnel, its location, the services it will provide, and its qualifications to provide such services. In addition, any subcontractor providing laboratory

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services must meet all the qualifications listed in this IFB and must provide documentation of its quality management system and its internal and external control programs to demonstrate ability to perform the services required.

1.2 IFB GOAL

The objective of this IFB is to retain a laboratory to collect samples from both state and municipal officials at predetermined locations throughout New York State, transport them to a laboratory and analyze them for quality.

1.3 ELIGIBLE BIDDERS

Any bidder that meets the minimum qualifications set forth in Section 3.3 of this IFB is eligible to submit a bid.

Proposals will not be accepted from bidders affiliated with petroleum product producers, refiners, dealers, marketers or any entity subject to the control of any such person.

1.4 TERM

The Department will award a contract to the successful bidder for a one (1) year term, with the possibility of four (4) additional one (1) year renewals. The contract will incorporate this IFB and the successful bidder's proposal among its provisions. A copy of the standard clauses that set forth the general terms and conditions required in all contracts awarded by the Department as well as any special conditions that will be required for this contract is attached to this IFB. (See Appendix 1) The initial contract and subsequent renewals are contingent on availability of funding, and approval of the Department, the Attorney General's Office and the Office of the State Comptroller.

At the end of any negotiated contract term, if a replacement contract has not yet been approved in accordance with state law, any contract awarded hereunder may be extended unilaterally by the State, upon notice to the contractor, at the same terms and conditions, including all contract prices, for a period of one month. Additionally, this extension may be for a period of up to three months with the concurrence of the contractor. However, any extension will terminate immediately upon approval of the replacement contract except where a period for transition of contractors has been previously provided for.

1.5 IFB TIMELINE

KEY EVENTS/DATES

IFB Issued	January 18, 2022
Deadline to Register for Pre-proposal Conference	February 1, 2022 at 4:30 PM
Mandatory Pre-Proposal Conference	February 8, 2022
Deadline for Questions	February 14, 2022 at 3:00 PM
Last update of answers or issuance of IFB Addendum	February 16, 2022
Submission Deadline	February 22 25, 2022 at 3:00 PM

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2. DESCRIPTION OF WORK TO BE PERFORMED

2.1 SCOPE OF WORK

(SAMPLE COLLECTION)

The contractor shall provide collection services to pick up the samples from the municipal and Department officials throughout the State. Collection sites will be assigned by the Department at locations convenient to the following major highways: I-90, I-87, I-88, I-81, I-495, Route 17(I86), etc. The Department will prepare monthly pickup schedules in cooperation with the contractor. The courier will not be asked to collect more than 1,000 lb of flammables (gasoline, gasoline/ethanol blends, ethanol) on any pickup. The contractor must establish and provide evidence of sample integrity, from the time of sample pickup until completion of the test at the laboratory.

The contractor shall provide and deliver replacement fuel sampling equipment meeting ASTM D4057 and/or Federal EPA requirements (e.g. 40 CFR 1090) to the municipal and Department officials. This will include not more than 25 brass, nozzle extender tubes for RVP sampling to replace equipment that is lost or damaged during the term of the contract. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials.

The contractor shall provide suitable, DOT approved, one gallon sample containers to the municipal and Department officials for collection and transport of all gasoline and diesel fuel samples. Suitable 4 fl oz containers shall be provided for fuel oil samples and agreement will be made on the size and type of container used for each biofuel. These containers may be new, or may be reusable, provided the contractor guarantees there will be no sample contamination with reuse. The used sample containers remain the property of the contractor. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials.

The contractor shall provide appropriate sample security seals to provide evidence of sample tampering in a form acceptable to the Department. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials. The contractor shall also provide suitable, serially numbered, identification tags to uniquely identify each sample. The Department shall specify the range of identification numbers to be used (presently using format GXXXXXX for gasoline and ethanol and DXXXXXX for diesel fuel, biodiesel, and fuel oil). Deliveries of ID tags shall be made to the Department of Agriculture and Markets, Bureau of Weights & Measures, 10B Airline Drive, Albany, New York 12235.

(TEST PROTOCOLS)

GASOLINE - Each sample of gasoline, which may contain up to 15% ethanol by volume, will be designated for testing using Protocol 1 (octane) or Protocol 2 (full) as shown in the protocols below. Generally, Protocol 1 is used fall, winter and spring and Protocol 2 is used during the summer. Additionally, during the fall, winter, and spring we typically have ten percent (10%) of the samples tested using Protocol 2. The Department may request retests on selected samples for octane using Protocol 1 or we may request an upgrade to Protocol 2. These retests/upgrades are performed on the original sample.

1. Protocol: Gas Octane

<u>Description</u>	<u>Test Method</u>
Research Octane Number	ASTM D2699
Motor Octane Number	ASTM D2700
Anti-knock Index (R+M)/2 Octane	ASTM D4814 (average of above tests)

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2. Protocol: Gas Full (Octane and Other Parameters)

<u>Description</u>	<u>Test Method</u>
Research Octane Number	ASTM D2699
Motor Octane Number	ASTM D2700
Anti-knock Index (R+M)/2 Octane	ASTM D4814 (average of above tests)
Distillation	ASTM D86
Driveability Index	ASTM D4814 (calculated from Distillation data)
Sulfur	ASTM D5453
Benzene	ASTM D3606
Oxygenates	ASTM D4815* or GC-OFID
Vapor Pressure	ASTM D5190 or D5191
API Gravity	ASTM D4052 or D1298
Temperature - V/L=20	ASTM D4814 (Procedure X2.2)

*This method also requires measurement of relative density of the gasoline by ASTM D4052 or D1298. The contractor must maintain correlation of this method to the GC-OFID method or, in the future, demonstrate accuracy using performance based quality assurance programs accepted by EPA per 40 CFR 1090.

DIESEL FUELS - Each sample of diesel fuel will be tested using Protocol 1 below. The Department may request separate follow-up tests using the other protocols listed below. These follow-up tests are performed on the original sample.

1. Protocol: Diesel Fuel

<u>Description</u>	<u>Test Method</u>
Flash Point	ASTM D93
Distillation	ASTM D86
API Gravity	ASTM D287 or D1298 or D4052
Cetane Index	ASTM D4737 or D976
Aromatics	ASTM D1319
Sulfur	ASTM D7039 or D5453

2. Protocol: Diesel Fuel - Cetane Number

<u>Description</u>	<u>Test Method</u>
Cetane Number	ASTM D613

3. Protocol: Diesel Fuel – CFPP (P/F at a specified 10th percentile minimum temperature)

<u>Description</u>	<u>Test Method</u>
Cold Flow Properties	ASTM D6371

4. Protocol: Diesel Fuel – Biodiesel Content

<u>Description</u>	<u>Test Method</u>
Biodiesel Content	ASTM D7371

5. Protocol: Fuel Oils – (sulfur only)

<u>Description</u>	<u>Test Method</u>
Sulfur	ASTM D2622 or D5453 or D7039

6. Protocol: Fuel Oils – Biodiesel Content

<u>Description</u>	<u>Test Method</u>
Biodiesel Content	ASTM D7371

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ALTERNATIVE LIQUID AUTOMOTIVE FUELS - Each sample will be tested using the Protocols listed below.

1. Protocol: Bio-Diesel (B100)

<u>Description</u>	<u>Test Method</u>
Flash point	ASTM D93
Water and sediment	ASTM D2709
Total glycerin	ASTM D6584
Free glycerin	ASTM D6584
Acid number	ASTM D664

2. Protocol: Ethanol blends above E15 and up to 83% ethanol by volume

<u>Description</u>	<u>Test Method</u>
Ethanol content	ASTM D5501 or D4815 or D5599
Water content	ASTM E1064

3. Protocol: Denatured Fuel Ethanol intended for blending with gasoline

<u>Description</u>	<u>Test Method</u>
Ethanol content	ASTM D5501 or D4815 or D5599
Water content	ASTM E1064
API Gravity	ASTM D4052 or D1298

Add-on: Hand blending of RBOB or CBOB and ethanol - There are currently terminals in New York State that blend ethanol using a two component system. Ethanol blends are created at the rack when loading the tanker truck. Generally, ethanol is added to RBOB (Reformulated Blendstock for Oxygenate Blending) or CBOB (Conventional Blendstock for Oxygenate Blending) to produce a finished gasoline. The Department does not normally sample the finished gasoline from tanker trucks. Instead, the Department will sample the blendstock products and have the contractor create an equivalent finished product using hand blends to the terminals formulas. The Department will provide the contractor with the formulas and there will be a per sample charge to make the hand blend.

Example: The Department supplies an RBOB sample along with a sample of ethanol, and instructs the contractor to blend 2,700 ml RBOB with 300 ml ethanol.

Add-on: Upgrade of Gasoline Octane to Gasoline Full - The Department will also negotiate in the contract a provision to upgrade a Gasoline Octane protocol to a Gasoline Full protocol on a sample that was already logged and tested using the Gasoline Octane protocol. The Department recognizes that vapor pressure results may be affected because the sample container had already been opened to run the octane tests. The add-on costs will cover the additional tests and the additional administrative work required to pull the sample from storage, re-enter the sample in the contractor's computer system, create a new test sheet, and issue an amended report including both old and new data to both New York State and the municipality.

The Department may modify at any time any test protocol or portion thereof. If such modification results in a different cost to the contractor, such differences shall be resolved through negotiation between the contractor and the Department and shall be reflected in the price paid for the tests.

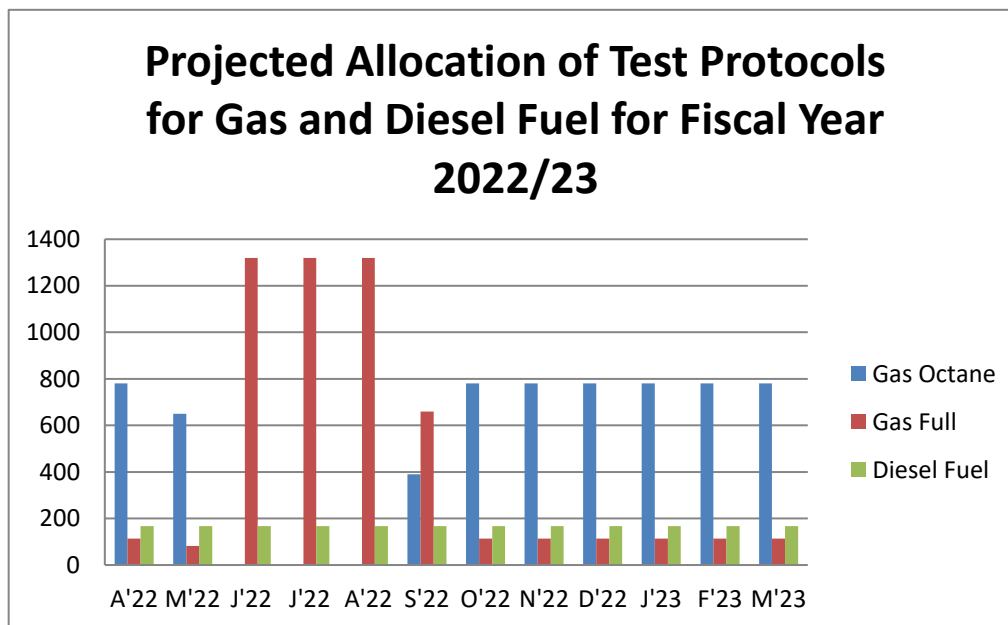
(Projected Allocation of Test Protocols)

The total number of samples projected for each protocol is 6,500 gas octane, 5,500 gas full, and 2,000 diesel fuel. The Department is projecting to test 50 biodiesel and 50 ethanol samples in State Fiscal Year 2022/23. It is

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anticipated that about 25 diesel fuel samples will be tested for CFPP during the months of December – February of each year. These tests will be performed on selected diesel fuel samples that have already been tested under the Diesel Fuel protocol. The fuel oil biodiesel content tests are not expected to exceed 25 per year. Hand blends for gasoline are projected at 1,100 per year.

As depicted in the chart below, the ratio of gas octane to gas full protocols varies with seasonal requirements and environmental control periods. The number of retests for octane and follow-up tests for cetane number will be dependent on failure rates. Octane retests are not expected to be above 100 per year and cetane number follow-up tests are not expected to be over 25 per year. The Department had 23 Octane retests and no Cetane retests done in SFY 2020/21, the last year in which complete data was available.



(DATA COMPILATION AND TRANSMISSION)

The contractor shall maintain records of all tests performed under this contract, including copies of log books, printed reports from the instruments, and electronic media to support any enforcement action by the Department or municipal officials. These shall be maintained for a term as described in Appendix A.

The contractor shall report the results to the Department for each sample submitted in an acceptable electronic format not later than four (4) business days from September 16th to May 31st and five (5) business days from June 1st to September 15th following receipt of the sample. The contractor shall report results of octane retests requested by the Department, not later than three (3) business days after the contractor receives the request. For follow-up tests such as diesel cetane and CFPP, the contractor shall report results as requested by the Department, not later than five (5) business days after the contractor receives the request.

The contractor shall incorporate the test results in an ASCII space delimited text file for transmission to the Department. The contractor shall send the ASCII text files containing the results to the Department via email to Vadim.Atenzon@agriculture.ny.gov. The contractor shall not be considered tardy in transmission of data if the Department's email connection is inaccessible. The results for the test protocol CFPP as well as water and sediment tests for gasoline and diesel fuel will be reported as Pass/Fail by using values of zero (0) for pass and one (1) for fail in the ASCII text file. Also, unusual samples that cannot be tested due to water, mud, sediment or for any other reason should be reported in a separate email and not in the ASCII text file.

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Listed below is a sample format for sending the ASCII space delimited text file for data transfer to the State Office. One record is sent per pickup date with up to 8 results per diesel sample and either 3 or 21 results per gasoline sample. An additional record will be sent for retests with an appropriate number of results as specified in the protocols.

Sample Format for ASCII Delimited Text File for Emailing Data

Format for each row: Sample #; Inspector; Juris; Test Type; pickup date; Lab #; test; result

```
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D01" 48.7
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D03" 37.5
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D04" 72
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D06" 490.7
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D07" 618.2
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D09" 22.0
"D084743" "919" "99" "O" 11/17/2021 "5088099" "D10" 0.00105
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T01" 92.6
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T02" 83.3
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T03" 88.0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T04" 13.59
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T06" 107.0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T07" 151.1
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T08" 304.1
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T09" 392.3
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T10" 1.3
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T13" 3.86
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T14" 10.31
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T15" 0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T17" 0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T18" 0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T19" 0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T20" 0
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T21" 1.17
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T23" 60.9
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T24" 943
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T26" 108.9
"G497013" "919" "99" "O" 11/17/2021 "5088099" "T27" 0.0027
"G483059" "435" "47" "R" 10/12/2021 "5088504" "T01" 92.8
"G483059" "435" "47" "R" 10/12/2021 "5088504" "T02" 83.7
"G483059" "435" "47" "R" 10/12/2021 "5088504" "T03" 88.2
"G483060" "435" "47" "R" 10/12/2021 "5088504" "T01" 93.3
"G483060" "435" "47" "R" 10/12/2021 "5088504" "T02" 84.9
"G483060" "435" "47" "R" 10/12/2021 "5088504" "T03" 89.1
"G483061" "435" "47" "R" 10/12/2021 "5088504" "T01" 95.0
"G483061" "435" "47" "R" 10/12/2021 "5088504" "T02" 87.2
"G483061" "435" "47" "R" 10/12/2021 "5088504" "T03" 91.1
```

Key

Sample # = text (7 char)

Inspector # = text (3 char)

Jurisdiction code = text (2 char)

Test type = "O" for Original or "R" for retest (1 char)

Date of pickup = date (MM/DD/YYYY)

Lab # = text (can be lab reference, batch, etc.)

Test code = text (3 char) A listing of codes will be provided at the pre-proposal conference.

Result = real number

The contractor shall also provide test results to each municipality for samples taken by the municipality, and for any retests of these samples requested by the Department. In most cases the transmission will be by email. Where the municipality has no email capability the results shall be sent by FAX or first class mail. Mailing addresses for the 60 jurisdictions, phone and FAX numbers, and email addresses where available will be provided prior to the start of testing.

The contractor shall provide official, signed reports of the test results to the Department for those specific samples

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requested by the Department (generally for failures) within seven (7) business days of the request.

(QUALITY CONTROL AND ASSURANCE SYSTEMS)

The contractor shall have internal and external quality control and assurance programs in place to monitor performance and ensure that tests are accurate within stated ASTM reproducibility limits. These shall be documented in the contractors Quality System description. The Department shall have access to review all of the quality programs at on-site audits and may further require information be supplied electronically for specific parameters. In addition, if the Department finds reason to question any test results, the contractor shall investigate the tests in question and document their conclusions.

The Department will submit duplicate blind samples periodically and share analysis of the agreement between results for each duplicate with the contractor. The Department may also conduct other broad data analyses on the data supplied by the contractor as part of a quality monitoring system, e.g. agreement between original octane tests and retests.

The contractor must continue to participate in external control programs (proficiency tests) for the duration of the contract. The contractor shall also maintain and document internal quality control checks on parameters within the scope of the contract. For each such program, the contractor shall conduct an analysis of their performance for each measurement parameter. The contractor shall identify any out-of-control values and document the corrective actions taken. For biofuels, it is expected that the bidder will either have quality control programs in place for those parameters or initiate them prior to beginning of the contract.

(DISPOSITION OF SAMPLES)

All samples shall be retained for thirty (30) business days following the transmission of test results to the Department. After notification by the Department, non-conforming samples shall be preserved by the contractor for a period of ninety (90) business days, and after further notification, for such additional time as may be required by the Department.

The remaining portion of conforming samples (and non-conforming samples after being held for the required periods) shall become the property of the contractor. Any cost savings from use of the remaining product shall be factored into the price of the tests.

(WITNESSES)

The contractor shall make responsible personnel available, as necessary, to municipalities and the Department to serve as witnesses in connection with enforcement actions. Costs for this service shall be negotiated with the contractor and shall be paid by the Department. Incidences requiring witnesses are rare since most enforcement actions are settled through negotiated civil proceedings.

(INVOICING AND PAYMENTS)

The contractor shall submit vouchers to the Department for payment using paper forms provided. The voucher shall include a summary containing a listing of each test protocol in the contract with the number of tests performed, the unit price, and total amount. In addition, the summary page must contain a listing of each add-on item (Hand-blend for RBOB/CBOB or Upgrade of Gas Octane to Gas Full) with the quantity, unit price, and the amount.

The contractor shall also provide supporting documentation for each voucher, in the file format below, and send it as a delimited ASCII text file to Mandi.Monterosso@agriculture.ny.gov. The Department will verify the

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amounts for each voucher against data in its database. The Department expects that the text file will follow the format shown below.

Example of Text File for Billing

Sample_No, LIMS_Log_Date, Seal_Number, Jurisdiction, Lab_Number, Test_Type, Log_Date, Test_Slate

1602268015	10/4/2021	D085864	99	5088504	O	10/4/2021	NY State Diesel (No Cetane Number)
1602268016	10/4/2021	D085865	99	5088504	O	10/4/2021	NY State Diesel (No Cetane Number)
1602333004	10/11/2021	G478784	58	5088504	O	10/11/2021	NY State Gasoline (Full Test)
1602355038	10/12/2021	G444873	55	5088504	O	10/12/2021	NY State Gasoline (Octanes)
1602355039	10/12/2021	G444874	55	5088504	O	10/12/2021	NY State Gasoline (Octanes)

3. BID SUBMISSION

3.1 SUBMISSION TIMELINE

All bid submission documents required to be responsive for bid evaluation must be received by the Department no later than 3:00 PM, local time, on February ~~22-25~~, 2022 in order to be considered. All remaining forms and documents required to be completed after notification of selection is made shall be submitted to the Department by the selected Contractor prior to execution of the contract.

Any questions concerning this IFB must be received by 3:00 PM, local time, on February 14, 2022. Questions must be submitted in writing. Email is preferred and should be directed to Carrie Lindemann, the designated contact for this procurement, at procurement.info@agriculture.ny.gov. Please list "PETROLEUM QUALITY IFB #0266" in the subject line. In the alternative, questions may be mailed to: NYS Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, NY 12235 Attn: Carrie Lindemann (IFB #0266 "PETROLEUM QUALITY IFB").

A Question and Answer document will be posted to the Department website at: <http://www.agriculture.ny.gov/RFPS.html> under "Current Funding Opportunities" no later than February 16, 2022. No individual written responses will be provided.

Any revisions to this IFB will be posted on the Department's website, under "Current Funding Opportunities" at <http://www.agriculture.ny.gov/RFPS.html>. All bidders are responsible for keeping informed of any revisions to this IFB. All questions and answers shall be incorporated into the IFB which will be part of the awarded contract. If you are unable to access the Department's website, please contact Carrie Lindemann at procurement.info@agriculture.ny.gov to arrange for alternate delivery. You may also contact Carrie Lindemann at the mailing address noted above.

MANDATORY PRE-PROPOSAL CONFERENCE

The Department will hold a mandatory pre-proposal conference at 10:30 AM, local time, on February 8, 2022, at the Department of Agriculture and Markets Laboratory, Building 6 Harriman Campus, Albany, NY. The purpose of this conference is to brief bidders on the present program and answer questions that interested parties may have regarding the IFB. Arrangements may be made to allow remote attendance via webcast if any bidders express an interest in doing so.

Proposals will only be accepted from firms that register for and attend this conference. Questions and answers from this conference will be posted on the Department's website by February 16, 2022.

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Potential bidders shall notify the Department by 4:30 PM, local time, on February 1, 2022 of their intent to attend by submitting the attached Registration Form (Appendix 4) as instructed. This notification will permit the Department to prepare handout materials for all participants.

Proposals will only be accepted from vendors that attended this conference.

3.2 SUBMISSION METHOD

Facsimiles or emailed copies are not acceptable. Materials received after the due date/time shall be returned unopened to the sender. No supplemental submissions or amendments to the bid response will be accepted thereafter.

Mail or hand deliver a bid response in one (1) package containing the following two (2) separately labeled envelopes:

1. Minimum Qualifications and Required Forms and Assurances: Mail the original plus one (1) paper copy of the Minimum Qualifications and Required Forms and Assurances in a separate envelope labeled “IFB #0266 Petroleum Quality - Minimum Qualifications and Required Forms and Assurances - Do Not Open” and include:

- All Forms and Assurances located in the Submission Documents packet (which follows Appendix 4), including original signatures, where necessary.
 - ✓ Submission Documents Checklist.
 - ✓ Minimum Qualifications and Mandatory Contract Requirements Certification Form (Original Signatures).
 - ✓ Non-Collusive Bidding Certification (Original Signatures).
 - ✓ MacBride Nondiscrimination Certification Form (Original Signatures).
 - ✓ Procurement Lobbying Law Forms (Original Signatures).
 - ✓ Substitute Form W-9, if SFS Vendor ID needed (Original Signatures).

2. Bid Form: Original plus one (1) paper copy of the completed Bid Form Cost Proposal located in the Submission Documents packet (which follows Appendix 4), should be mailed in a separate envelope labeled “IFB #0266 Petroleum Quality – Bid Form Cost Proposal - Do Not Open” and must include the following outlined below:

- Bid Form (Original Signatures)

To the following address:

New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Carrie Lindemann, IFB #0266

3.3 MINIMUM QUALIFICATIONS

The Department is seeking proposals from experienced companies with the personnel, facilities, and organization to meet the demands of a contract of the size and scope presented above. Bidders shall comply with the laws of the State of New York and shall possess or obtain any required licenses, permits or authorizations.

The Department will only consider bidders (and any proposed subcontractors) who meet the following

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qualifications:

1. The bidder and all of its affiliates/subsidiaries are independent and not affiliated or under the control of petroleum product producers, refiners, dealers, marketers or any entity subject to the control of any such person. There is no known current or future conflict of interest on the part of the bidder or affiliates/subsidiaries should they be awarded this contract.
2. The bidder is experienced in the performance of the tests on gasoline and diesel fuel to meet the demands of the Department's program.
3. The bidder has a quality management system (for example, following ISO 9000 or other quality standards) in-place and subject to review by the Department.
4. The bidder is registered and in good standing with the US Environmental Protection Agency to test Reformulated Gasoline (RFG) and has had at least twelve (12) months experience testing RFG parameters.
5. The bidder has continuously participated in external control programs in the twelve (12) months immediately preceding submission of the proposal. This shall include "proficiency tests" to demonstrate ability to perform the tests requested within applicable control limits. This must include gasoline octane and RFG parameters such as vapor pressure, benzene and sulfur.

Please see Appendix 3 for proposal formatting requirements.

3.4 MANDATORY CONTRACT REQUIREMENTS

Each bidder must certify that, if selected, the bidder will meet the following requirements:

1. The selected contractor will have full control of all personnel and equipment provided and assumes total responsibility for financial loss, accident, injury, or death that may occur as a result of the services provided. The contractor will indemnify and hold harmless the State of New York, the Department, its officers and employees, from all claims, demands, damages, expenses, liability or obligation for damages, loss or injury to, or of, any person or property arising out of the acts of the selected contractor, its agents, servants, employees, and those acting for or on its behalf. Such indemnity shall not be limited by reasons of any insurance coverage provided.
2. The selected contractor will obtain and maintain the following policies from an insurance company authorized to do business in the State of New York:
 - Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages, with no modification to the contractual liability coverage provided therein. Coverages shall include liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately on a per location or per project basis.
 - Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile, including owned, leased, hired and non-owned automobiles.
 - Worker's Compensation and Disability Insurance – Statutory limits.

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3. The selected contractor agrees to comply with “Appendix A, Standard Clauses for New York State Contracts,” a copy of which is attached to this IFB as Appendix 2.

3.5 BID FORM

All bids must be submitted on the “Bid Form” included in the Submission Documents packet (which follows Appendix 4). The Bid Form must not be altered in any way.

The bidder shall use Attachments 1a to 1e to submit a financial proposal. The financial proposal shall set forth the costs for each year of the proposed 5-year contract. The costs shall be presented on a per sample basis and shall include all costs associated with the collection, transportation, testing, data management, and reporting. The per-sample costs should reflect any cost savings from the disposition of useful product.

The total bid price will be calculated on the following number of samples per year over five years:

Protocol	Number of Samples
Gas Octane (incl retest)	6,500
Gas Full	5,500
Diesel Fuel	2,000
Cetane Number	25
Diesel Fuel CFPP	25
Fuel Oils (biodiesel content only)	25
Ethanol Blends (E15 to 83%)	50
Denatured Fuel Ethanol	25
Bio-Diesel (B100)	50
Hand Blending	1,200

4. EVALUATION

4.1 CONSIDERATION

For a bidder to be eligible for consideration, it must meet the Minimum Qualifications. For the bid response to be evaluated, the bidder must certify that it will meet the Mandatory Contract Requirements.

4.2 DETERMINATION OF BID AWARD

The contract will be awarded to the qualified responsible bidder offering the lowest price on the Bid Forms for the five (5) potential contract years.

In the event of a tie, the contract will be awarded to the bidder that has the most years of experience.

The evaluation of the proposals shall be done in stages as follows:

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Stage 1. Evaluation of Financial Proposal

The low bidder will be determined using the total projected contract costs for the five potential contract years at the sample levels specified in the chart on page fourteen (14) of this IFB. A copy of the Excel spreadsheet used to calculate the total cost will be provided at the pre-proposal conference.

Stage 2. Evaluation of the Bidder Qualifications - (Qualitative Screen)

The Department will screen the proposal received from the lowest bidder using the Qualitative Checklist below. A “NO” response by the evaluation team to any of the evaluation standards below will result in disqualification of the bidder.

<input type="checkbox"/> Yes <input type="checkbox"/> No	1.1. The bidder has certified that their company, and any of its subsidiaries, is/are not owned by or affiliated with petroleum product producers, refiners, distributors, dealers, marketers or any entity subject to the control of any such person.
<input type="checkbox"/> Yes <input type="checkbox"/> No	The bidder has certified that their company, and any of its subsidiaries, is/are not involved in any other relationship that may pose a conflict of interest in conducting independent testing and analysis and/or any other aspect of the scope of services associated with this offering.
<input type="checkbox"/> Yes <input type="checkbox"/> No	1.2 A list of at least three clients was provided.
<input type="checkbox"/> Yes <input type="checkbox"/> No	The bidder has experience in providing the services required to satisfy the IFB. The Department reserves the right to contact the references to verify that the bidder did perform services for the clients, and performed those services in a timely manner consistent with current industry practices and established procedures e.g. ASTM standards.
<input type="checkbox"/> Yes <input type="checkbox"/> No	1.3 The Bidder has a Quality System in place.
<input type="checkbox"/> Yes <input type="checkbox"/> No	Although strict compliance with an established standard like ISO 9000 is not required, the Department will demand that the Quality System have the following critical elements:
<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> ▪ The Quality System applies to the parameters and tests requested in Scope of Services in this IFB.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> ▪ The Quality System declares the Company's commitment to provide high quality services.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> ▪ The Quality System lists Personnel responsible for the implementing and maintaining the Quality System and lists their specific responsibilities.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> ▪ The Quality System includes annual review of the quality system, audit of actual conformance, and procedures to handle complaints and take corrective actions when non-compliance is detected.
Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> ▪ The Quality System includes/references documented procedures for calibrating the test equipment, handling and storing samples, performing the appropriate tests, maintaining records of the tests, and reporting the results.

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<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	1.4 The bidder provided documentation that it is currently registered with the EPA to test RFG.
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No	1.5 A list of RFG clients was provided, and The bidder has at least 12 months experience performing such tests.
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	1.6 The bidder has participated in Proficiency Test evaluations over the last twelve months for various parameters. The summary provided must include at a minimum: <ul style="list-style-type: none"> ▪ gasoline octane (both research and motor octane) ▪ vapor pressure ▪ gasoline sulfur content (Not applicable if 1.4 and 1.5 are checked N/A) ▪ gasoline benzene content (Not applicable if 1.4 and 1.5 are checked N/A)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	1.7 The bidder has provided a list of laboratory sites that will be used. The bidder has provided a list of test equipment to be used that includes all the parameters requested and associated test equipment required to perform those specific tests. For alternative sites of subcontractors this only applies to the specific tests they will perform. Proposed alternative sites are under the corporate control of the bidder. Proposed alternative sites, comply with the applicable requirements. (A separate Qualitative Checklist will be completed for each alternative site. To qualify, the Qualitative Checklist for each alternative site must be free of No responses.)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	1.8 Subcontracting – The bidder proposed to subcontract some tests? (N/A if bidder is not using subcontractors.) If Yes is checked above, is the subcontracting declared in the proposal? Does the subcontractor meet the minimum qualifications for the specific tests it will perform? (A separate Qualitative Checklist will be completed for each subcontractor. To qualify, the Qualitative Checklist for each subcontractor must be free of No responses.)
<input type="checkbox"/> Yes <input type="checkbox"/> No	1.9 The bidder has provided a copy of its most recent audited financial statement.

Stage 3. Optional Site Visit

After the initial qualitative screening of the low bidder's proposal, the Division of Weights and Measures may opt to make a site visit to the low bidder's facilities. The site visit may include, but is not limited to, meeting with the bidder's senior staff, and observing and verifying the bidder's capabilities as described in the proposal. If the Department determines that the bidder included statements that were misleading or inaccurate pertaining to significant aspects of the proposal, the bidder may be disqualified.

5. CONSIDERATIONS RELATED TO THIS PROCUREMENT

5.1 DEPARTMENT'S RESERVATION OF RIGHTS

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The Department reserves the right to:

- Reject any or all proposals received in response to the IFB;
- Withdraw the IFB at any time, at the agency's sole discretion;
- Make an award under the IFB in whole or in part;
- Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- Seek clarifications and revisions of proposals;
- Use proposal information obtained through site visits, management interviews and the State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB;
- Prior to the ***bid opening***, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the bidders;
- Waive any requirements that are not material;
- Negotiate with the successful bidder within the scope of the IFB in the best interests of the State;
- Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; and
- Make all interpretations of the meaning and intent of the IFB and resulting contract and the Department's interpretation is final.

5.2 NOTIFICATION OF AWARD

The Department will notify the selected bidder verbally, followed by a written confirmation. Unsuccessful bidders will be notified in writing by the Department within ten (10) business days after the award.

5.3 DEBRIEFING PROCEDURES

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by the Department that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contract identified in the Solicitation.

5.4 BID PROTEST PROCEDURES

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Bidders who receive a notice of non-award may protest the award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by the Department
2. The protest must be filed within ten (10) business days of receipt of a debriefing letter, or ten (10) business days of receipt of the notice of non-award, whichever is later. The protest letter must be filed with Carrie Lindemann at:

NYS Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, NY 12235

Or via email: procurement.info@agriculture.ny.gov

3. Fiscal Management will convene a review team that will include at least one staff member from each of the Department's Counsel's Office, Fiscal and the Program Division. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within fourteen (14) business days of receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and, and Fiscal Management will advise OSC that a protest was filed.
4. Fiscal Management in consultation with Counsel's Office may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts. An unsuccessful bidder may also protest the award by filing a protest, in writing, with the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, New York 12236. More information on the Office of the State Comptroller's (OSC) Contract Award Protest Procedures can be found in OSC's Guide to Financial Operations (GFO), Chapter XI.17, available on the internet at <https://web.osc.state.ny.us/agencies/guide/MyWebHelp/Default.htm>.

5.5 NEW YORK LAW

The provisions of New York law shall apply to the contract and to all claims, actions and other proceedings arising out of the contract.

5.6 REQUIRED APPROVALS

Any contract award resulting from this solicitation will be subject to the approval of the Office of the Attorney General of the State of New York and the Office of the State Comptroller of the State of New York.

5.7 VENDOR RESPONSIBILITY AND NYS VENDOR ID

Prime Contractors:

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, the Department must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity- both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a Vendor Responsibility Questionnaire. Public Authorities, BOCES, public colleges and universities are some of the exempt entities. For a complete list, see:

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<https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-documentation>

All bidders must fully and accurately complete the Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"). All bidders acknowledge that the Department's execution of the Contract will be contingent upon the Department's determination that the bidder is responsible, and that the Department will be relying upon the bidder's responses to the Questionnaire in making that determination. If it is found by the Department that a bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, the Department may terminate the contract by providing ten (10) days written notification to the contractor. In no case shall such termination of the contract by the Department be deemed a breach thereof, nor shall the Department be liable for any damages for lost profits or otherwise, which may be sustained by the contractor as a result of such termination.

NOTE: Bidders are encouraged to file the Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system> or go directly to the VendRep System online at <https://www.osc.state.ny.us/state-vendors/vendrep/enroll-vendrep-system>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a Department vendor responsibility review are required for a subcontractor where:

- the subcontractor is known at the time of the contract award;
- the subcontractor is not an entity that is exempt from reporting by OSC; and
- the subcontract will equal or exceed \$100,000 over the life of the contract

Note: Bidders must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (Submission Documents).

5.8 COST LIABILITY

The State of New York, the Department and the Division of Weights & Measures assume no responsibility or liability for the costs incurred by the Bidders in preparing and submitting their bids in response to this solicitation.

5.9 FREEDOM OF INFORMATION

The selected contractor's bid response and any contract resulting from this solicitation are subject to the provisions of Article 6 of New York State Public Officers Law, the Freedom of Information Law (NY FOIL). It is the responsibility of the Bidder to designate which components of the bid response are proprietary business information to be withheld from disclosure. A bidder may not designate its entire bid response as confidential, proprietary or copyrighted.

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5.10 PROCUREMENT LOBBYING LAW

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department of Agriculture and Markets and an offeror/bidder during the procurement process. (See Attachment 8 -- “Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence”). An offeror/bidder is restricted from making contacts from the earliest written notice, advertisement or solicitation of the IFB through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offeror/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period, the offeror/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department’s Guidelines, which are attached, and on the Office of General Services Website at <https://ogs.ny.gov/acpl>.

The Department has designated the following staff members to receive contacts pertaining to this Bid:

Carrie Lindemann
New York State Department of Agriculture & Markets
Division of Fiscal Management
10B Airline Drive Albany, New York 12235
E-mail: procurement.info@agriculture.ny.gov

5.11 DIESEL EMISSIONS REDUCTION ACT 2006

In 2007 New York State passed legislation establishing the Diesel Emissions Reduction Act 2006 (DERA). This Act amended the Environmental Conservation Law (ECL) by adding Section 19-0323 which requires the use of best available retrofit technology (BART) and ultra low sulfur diesel fuel (ULSD) for heavy duty vehicles owned or operated by, including on behalf of, state agencies and state or regional public authorities. The **Department** has promulgated regulations (6NYCRR Part 248) to provide guidance on provisions of the law. The regulations may be found on the **Department’s** website at: <http://www.dec.ny.gov/regs/2492.html>.

The **Contractor** will be required to certify that they are in compliance with the provisions of ECL Section 19-0323 by providing the necessary reporting information and attesting to the following:

The Contractor certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) Section 19-0323, to be used under this Contract, will comply with the specifications and provisions of ECL Section 19-0323 and the regulations promulgated thereto, which requires the use of Best Available Retrofit Technology (BART) and Ultra Low Sulfur Diesel (ULSD), unless specifically waived by the Department. Qualifications for a waiver under this law will be the responsibility of the Contractor.

5.12 IRAN DIVESTMENT ACT REQUIREMENTS

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012.

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By entering into this **Agreement**, the **Contractor** certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on the **Agreement** any subcontractor that is identified on the Prohibited Entities List. The **Contractor** agrees that should it seek to renew or extend this **Agreement**, it must provide the same certification at the time the **Agreement** is renewed or extended. The **Contractor** also agrees that any proposed assignee of the **Agreement** will be required to certify that it is not on the Prohibited Entities List before the **Department** may approve a request for assignment of **Agreement**.

During the term of the **Agreement**, should the **Department** receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the **Department** will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the **Department** shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the **Contractor** in default.

The **Department** reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the **Agreement**, and to pursue a responsibility review with the **Contractor** should it appear on the Prohibited Entities List hereafter.

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

The documents listed below are included in the **Submission Documents** packet, which follows. All documents requiring signature must be signed by an authorized representative of the Bidding entity. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the New York State Department of Agriculture and Markets. Please refer to Section 3.2 of this IFB, “Submission Method” for more information on how to package your proposal. The following forms must be completed and returned with the Bid Response:

- **Bid Form** (Signature Required - the form is included in the **Submission Documents as Attachment 1**)
- **Mandatory Requirements Certification Form** (Signature Required - the form is included in the **Submission Documents as Attachment 2**)
- **Non-Collusive Bidding Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 3**)
- **MacBride Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 4**)
- **Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms)** (Signature Required - the form is included in the **Submission Documents as Attachment 5**)
- **Vendor Responsibility** (Signature Required - the form is included in the **Submission Documents as Attachment 6**)
- **Substitute W-9 Form to obtain SFS ID** (Signature Required - Return if SFS Vendor ID is requested – the form is included in the **Submission Documents as Attachment 7**)

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6.2 CONTRACT DOCUMENTS AND REQUIREMENTS

The successful bidder will be required to execute a written contract with the Department. A sample New York State Department of Agriculture and Market's contract is attached to this IFB as Appendix 1. By submitting a bid, bidder agrees to be bound by all terms and conditions in the Department's contract including: Appendix A "Standard Clauses for New York State Contracts" (January 2014) attached to this IFB as Appendix 2.

7. RECOMMENDED SUBMISSIONS

The following forms are not required to be submitted with the bid response. Nevertheless, Bidders are encouraged to submit these forms in order to expedite contract execution if the bidder is awarded the contract.

AGM Substitute Form W-9

Any payee/vendor/organization receiving Federal and/or State payments from the Department must complete the Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

The Department is using the Substitute Form W-9 to obtain certification of a vendor's Tax Identification Number in order to facilitate a vendor's registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

Workers' Compensation Coverage and Debarment

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of WCL. The WCL requires, and has required since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers' compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers' Compensation Benefits clause in Appendix A – STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the contractor provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

PROOF OF COVERAGE REQUIREMENTS

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL. ***Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.***

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Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a State contract submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage:

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund; or
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a State contract must submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage:

- **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
- **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: New York State Department of Agriculture and Markets, Division of Weights & Measures, 10B Airline Drive, Albany, New York 12235 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

For additional information regarding workers' compensation and disability benefits requirements, please refer to the New York State Workers' Compensation Board website at: http://www.wcb.ny.gov/content/main/Employers/lp_permits-licenses-contracts.jsp. Alternatively, questions relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

Sales and Compensating Use Tax Certification (Tax Law § 5-a)

Tax Law § 5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance ("DTF") that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected bidder must file a properly completed Form ST-220-CA (with OSC as the Contracting Agency

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within 48 hours of notification of selection for award) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: www.tax.ny.gov/pdf/publications/sales/pub223.pdf. Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

Please note that although these forms are not required as part of the bid submissions, the Department encourages bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract. The above forms are required to be completed and submitted after notification of selection is made and prior to contract signing.

Consultant Disclosure

State contractors are required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the Contractor by the State as compensation for work performed by these employees. This includes information on any persons working under any subcontracts with the state contractor.

The definition of contracts for consulting services includes any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

Bidders should complete Form A: "State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term" included in the Submission Documents.